

NATIONAL SEA GRANT LAW CENTER 2009 NSGO FALL REVIEW

Gene W. Kim

Program Management

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□ Management Team

- ▣ Director, Stephanie Showalter, (0.8 FTE*)
- ▣ Research Counsel, Terra Bowling (1.0 FTE)
- ▣ Web Developer, Waurene Roberson (1.0 FTE)
- ▣ Program Coordinator, TBD (1.0 FTE)

*Director, 0.2 FTE dedicated to MS Legal Program

Program Organizational Chart

Law Center

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National Sea Grant Law Center
Director, Stephanie Showalter

Research
Counsel,
Terra Bowling

Web
Developer,
Waurene
Roberson

Law Student
Research
Associates

Program Organizational Chart

Law Center

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- The NSGLC was established in 2002 to provide legal research to the Sea Grant community and its constituents (including NOAA):
 - ▣ Conducts research on coastal and ocean laws and policies
 - ▣ Provides non-advocacy legal advisory and outreach services to agencies, local governments, coastal users, and the general public
- National Sea Grant Law Center Components:
 - ▣ Research (Advisory Service)
 - ▣ Outreach (Newsletters)
 - ▣ Education (Research Associate Program, Adjunct Professor of Law)

Extension Program Organizational Law Center Chart

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- *The Sea Grant Law Center Advisory Service:*
 - ▣ *Legal research service free of charge to the SG Network and constituents*
 - ▣ *Informational purposes only; cannot provide actual legal advice*
 - ▣ *Four-step process:*
 - *Constituent contacts Law Center*
 - *Law Center attorneys refine legal question and final product needed*
 - *Assign attorney and law students to conduct research and analysis*
 - *Final product prepared (i.e., memoranda of law, white paper, joint publication with extension, conference presentation)*
- *Publications:*
 - ▣ *The Sandbar (quarterly legal reporter)*
 - ▣ *The Sea Grant Law and Policy Digest (biannual digest <2008)*
 - ▣ *The Sea Grant Law and Policy Journal (biannual law journal >2008)*

Program Management – Advisory Board

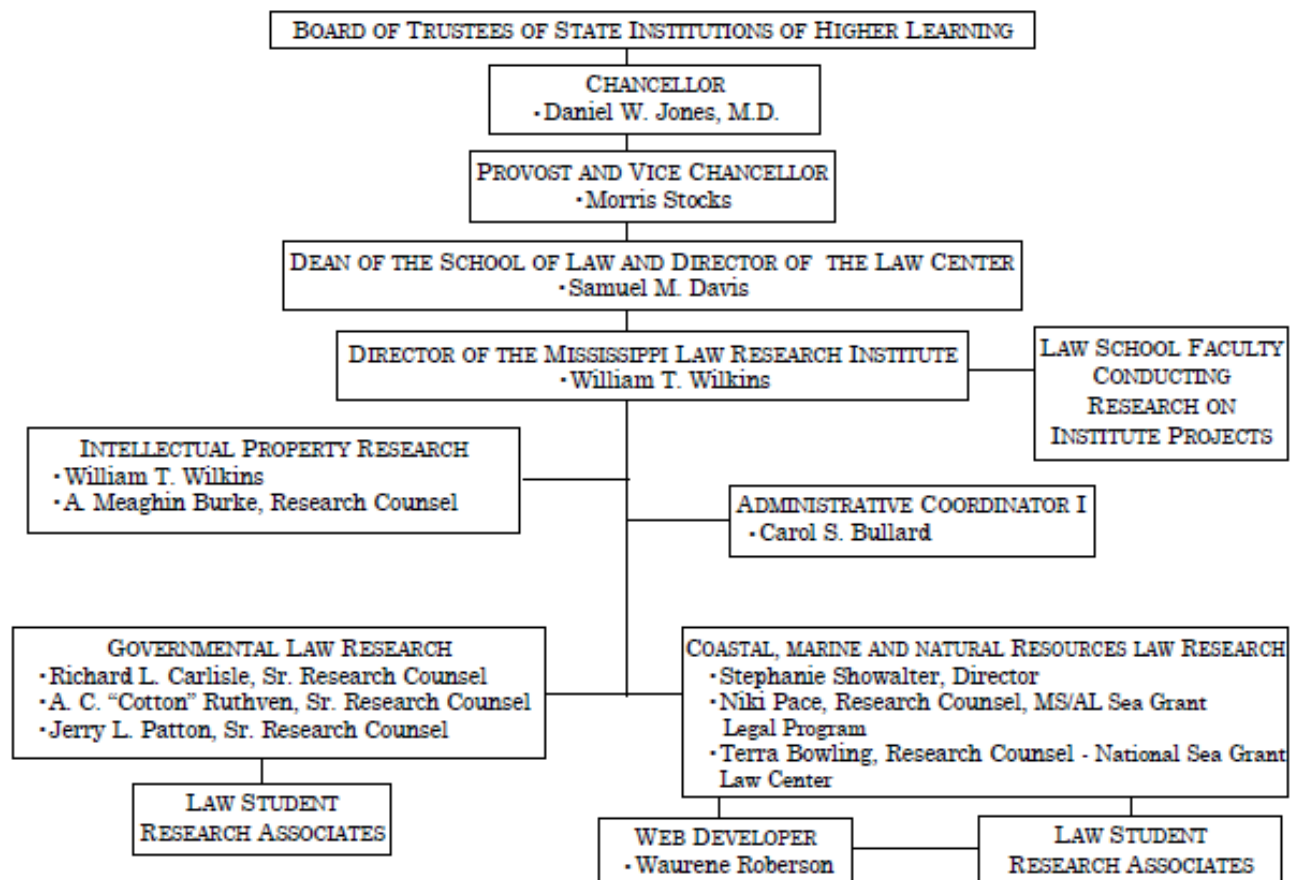
Law Center

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- Law Center Advisory Board
- *Ad hoc* basis
 - ▣ Paul Anderson (ME SG)
 - ▣ Anders Andren (WI SG)
 - ▣ Gordon Grau (HI SG)
 - ▣ Harry Schieber (Law Professor - UC-Berkeley)
 - ▣ Betsy Hart (Executive Director, National Aquaculture Association)
 - ▣ Margaret Davidson (NOAA CSC)
 - ▣ Gene Buck (Policy Analyst, Congressional Research Service)
 - ▣ Edward Sheppard (Private attorney with marine law practice)
 - ▣ Randall Abate (Law Professor, Florida Coastal University)
 - ▣ Jeffrey Stephan (United Fishermen's Marketing Association)

Institutional Setting

MISSISSIPPI LAW RESEARCH INSTITUTE



State Sea Grant Program Plan – Estimated 4-yr Budget Allocation by Focus Area

Law Center

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National Focus Area	Focus Area from Program Strategic Plan	Estimated Level of Effort of Federal, Match and Leveraged (%)	Estimated Level of Effort of Federal and Match (\$)	Estimated Level of Effort of Leveraged (\$)
Safe & Sustainable Seafood Supply	Same	25%	\$430,000	*
Sustainable Coastal Development	Same	30%	\$516,000	*
Healthy Coastal Ecosystems	Same	30%	\$516,000	*
Hazard Resiliency in Coastal Communities	Same	15%	\$258,000	*
Total		100%	\$1,720,000.0	*

*The Law Center does not currently anticipate leveraging a significant amount of funds. Rather, all efforts are focused on providing legal research, education, and outreach services to the Sea Grant Network efforts.

Performance Measure/Outcome Highlights

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- TBD
- Previously reported these through MSASGC
- Starting now, report directly via NIMS

Major Partners

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- Mississippi-Alabama Sea Grant Consortium
- Mississippi Law Research Institute
- University of Mississippi
- Mississippi-Alabama Sea Grant Legal Program
- Sea Grant Legal Network
 - MS-AL, LA, NC, RI
- NOAA Aquaculture Program
- NOAA Marine Debris Program

Network Activities - 2009

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- The Sea Grant Law Center Advisory Service
- SCCD Focus Team Member
- Working Waterfronts Coordinating Committee
- Chair of SG Legal Network
 - Members: Law Center, MS-AL, LA, NC, RI
 - Associate Members: UF Conservation Clinic; HISG Center for Island Climate Resiliency

2010 RFP Process

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- August 2009, sought proposals for one-year legal research and outreach projects of relevance to the Sea Grant network
- Require non-SG PIs to contact and incorporate SG Extension agents in proposals
- Anticipate ~\$225 in funds for research and outreach projects in 2010
 - ▣ Each project at ~\$25K
- Priorities:
 - ▣ Safe and Sustainable Seafood Supply,
 - ▣ Sustainable Coastal Development,
 - ▣ Healthy Coastal Ecosystems, and
 - ▣ Hazard Resilience in Coastal Communities
- Merit review and selection pending

2008/2009 Program Metrics – Awards and Honors

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- TBD
- Previously reported these through MSASGC
- Starting now, report directly via NIMS

2008/2009 Highlights of Metrics

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- TBD
- Previously reported these through MSASGC
- Starting now, report directly via NIMS

2008/2009 Program Impacts

Law Center

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Legal research results in formation of new marine reserve/protected area

- Through the 2007 Grant Competition, the Law Center funded an investigation into whether Port Orford, Oregon could develop a community-based fishery management system. The Project Team recommended four options the community could pursue, including nominating two areas off Port Orford for inclusion in Oregon's proposed Marine Reserve network. On September 28, 2008, the project team submitted a local proposal for a marine reserve/marine protected area, the Redfish Rocks Research Reserve, under Oregon's statewide marine reserve planning process. The Oregon Ocean Policy Advisory Council recommended that Redfish Rocks move forward as a pilot marine reserve and in June 2009 the Oregon legislature passed a bill designed to implement two marine reserves, including Redfish Rocks. The Oregon State Land Board and Fish and Wildlife Commission passed regulations in December 2009 for the Redfish Rocks Marine Reserve.

Legal Research on Proposed Hawaiian Bounty Program

- The Hawaii Department of Business, Economic Development, and Tourism sought information about the contract and liability issues surrounding the development of a reward program for recovery of derelict fishing gear. The Law Center concluded that the liability concerns were misplaced as the state should be immune from most suits and the reward program would not result in contractual relationships. According to the requesting individual, our research helped dispel what seemed to have been "an urban myth" This myth was a roadblock to implementing a major marine debris retrieval program.

Wild American Shrimp Lobbying Request

- Wild American Shrimp, Inc. requested information on lobbying restrictions and 501(c)(3) organizations and recipients of federal funds after a few members of the Board of Directors raised concerns regarding conflicts of interest. The Law Center wrote a summary of the restrictions and provided some IRS guidance on individual lobbying activities. The research dispelled the concerns of those members and stopped them from removing the members with perceived conflicts from the Board.

2008/2009 Program Impacts

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Research and Outreach on Ballast Water Regulatory Regime

- The Law Center's white paper entitled Michigan's New Ballast Water Regime: Navigating the Treacherous Waters of States' Rights, Federal Preemption, and International Commerce has had immediate impact in the Great Lakes shipping community. The white paper was widely distributed in the region prompting numerous media articles and presentations by Minnesota Sea Grant, the requesting organization. Without the white paper, each interested party (state and federal agencies, businesses, non-profit organizations, etc.) would have been forced to compile the legal information and policy analysis on their own. Thousands of dollars, both public and private, and hundreds of hours were saved.

Legal Research Supports ICOOS Act

- In June 2005, the Law Center prepared an advisory request memo for Ocean.US regarding tort liability issues associated with development of the U.S. Integrated Ocean Observing System (IOOS). Later that year, the Law Center prepared a follow-up memo regarding federal representation on the boards of the IOOS Regional Associations (RAs). These memos analyzed the legal basis for the concern of Ocean.US and others about the inability of agency personnel to be members of formal IOOS decision-making bodies and the potential liability of employees of RA if they were not considered federal employees. In 2009, Congress passed the ICOOS Act. The act contained an immunity provision for employees of RA and authorized the participation of federal employees in RAs. The Law Center's research contributed to the inclusion of that language in the final bill by confirming the importance of such language and providing the bill's supporters with much-needed written analysis.

Best Management Practices

Law Center

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- Sea Grant Law and Policy Journal 2010 Symposium, “Addressing Uncertainty of Environmental Problems: the Challenges of Adaptive Management”
 - March 30-31, 2010, Oxford, Mississippi

- In 2009, the Law Center undertook a major advisory request with the NOAA Aquaculture Program. This project resulted in three legal memorandum of law and one law review article
 - Gave brown bag, get word out to NOAA
 - Had meetings with Aquaculture program
 - Came up with big list of stuff
 - Tie into fellowship programs (PMF)

- Incorporation of extension in research:
 - Each proposal is peer-reviewed by an extension agent
 - Extension agent serves on the panel